

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

EVANS GENERAL CONTRACTORS,)	
LLC,)	
)	
Plaintiff,)	
)	
vs.)	Case No. <u>2:24-cv-00006-RWS</u>
)	
FLYNN BROTHERS)	
CONTRACTING, INC. and)	
TRAVELERS CASUALTY AND)	
SURETY)	
COMPANY OF AMERICA,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants Flynn Brothers Contracting, Inc. (“Flynn Brothers”) and Travelers Casualty and Surety Company of America (“Travelers”) hereby remove case number 23CV-1956-1 from the Superior Court of Forsyth County, Georgia, to the United States District Court for the Northern District of Georgia, Gainesville Division, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446. In support of removal defendants state the following:

Statement of the Grounds for Removal

1. On December 11 2023, Plaintiff Evans General Contractors, LLC (“Evans”) filed a Complaint in the Superior Court of Forsyth County, Georgia, styled

Evans General Contractors, LLC v. Flynn Brothers Contracting, Inc. and Travelers Casualty and Surety Company of America, Civil Action File No. 23-CV-1956-1.

2. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders served upon defendants is attached as follows:

- a. Exhibit A – Summons served on Travelers;
- b. Exhibit B – Complaint.
- c. Exhibit C – Answer of Flynn Brothers
- d. Exhibit D – Answer of Travelers

3. Evans is a Georgia limited liability company. *See* Complaint at ¶ 1. On information and belief, the members of Evans are domiciled in Georgia and not domiciled in the states of Kentucky or Connecticut.

4. Flynn Brothers is Kentucky corporation with its principal office and registered agent being in Louisville, Kentucky. *See* Complaint at ¶ 2.

5. Travelers is a surety corporation incorporated in the state of Connecticut and has its principal place of business in the state of Connecticut. *See* Complaint at ¶ 3.

6. Travelers and Flynn Brothers were served with the Summons and Complaint on December 13, 2023.

7. The Complaint purports to assert four causes of action including: 1) breach of contract, 2) breach of performance bond, 3) declaratory judgment, and 4) attorneys' fees and costs.

8. This case does not involve a policy or contract of liability insurance. *See* Complaint generally.

9. Evans demands a judgment against defendants, jointly and severally, in the amount of \$315,789.50 plus attorneys' fees. *See* Complaint at ¶ 24 and *ad damnum* clause.

Diversity Jurisdiction Under 28 U.S.C. § 1332(a)

10. This Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between plaintiff and defendants, and more than \$75,000.00, exclusive of interest and costs, is at stake.

11. Upon information and belief, Evans appears to be a citizen, for the purposes of diversity jurisdiction, of the state of Georgia. *See Purchasing Power, LLC v. Bluestem Brands, Inc.*, 851 F.3d 1218, 1226 (11th Cir. 2017).

12. Flynn Brothers is a citizen of the state of Kentucky for the purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332(c).

13. For the purpose of diversity jurisdiction Travelers is a citizen of the state of Connecticut. *See id.*

14. Evans demanded a judgment against the defendants in the amount of \$315,789.50 plus attorneys' fees.

15. Therefore, there is complete diversity between plaintiff and defendants, and well over \$75,000 exclusive of interest and costs is in controversy.

All Procedural Requirements for Removal Have been Satisfied

16. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, and orders served upon are being filed with this Notice of Removal. *See* Exhibits A through D.

17. This Notice of Removal has been filed within 30 days of the date the defendants were served with a Summons and Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

18. In accordance with 28 U.S.C. § 1446(d), written notice of this notice of removal will be provided to all adverse parties and a copy of such written notice will be filed with the Clerk for the Superior Court of Forsyth County, Georgia. *See* a copy of the Notice of Removal to Federal Court to be provided adverse parties and filed in Forsyth County Superior Court, attached hereto as Exhibit E.

19. This action is a civil action in which this court has original jurisdiction under the provisions of 28 U.S.C. § 1332(a) and is one which may be removed to this Court by defendants pursuant to the provisions of 28 U.S.C. § 1441.

20. Venue is proper under 28 U.S.C. §§ 90 and 1441(a) because the United States District Court for the Northern District of Georgia, Gainesville Division, is the federal district and division embracing the Superior Court for Forsyth County, Georgia.

21. Defendants reserve the right to submit further evidence supporting this Notice of Removal should Plaintiff move to remand.

22. Defendants do not waive any objections it may have as to service, jurisdiction, or venue.

23. Defendants intend no admission of fact, law, or liability by this Notice of Removal, and expressly reserves all defenses, motions, and pleas.

WHEREFORE, Defendants respectfully give notice that the above-styled action currently pending against them in the Superior Court for Forsyth County, Georgia is hereby removed to this Court.

Respectfully submitted this January 12, 2024.

/s/ William D. Flatt

Georgia Bar No. 262827

/s/ Kevin S. Dale

Georgia Bar No. 328098

*Attorneys for Flynn Brothers Contracting,
Inc. and Travelers Casualty and Surety
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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2024, I electronically filed this **Notice of Removal** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record via email addresses khudson@hlpwlaw.com and abell@hlpwlaw.

I hereby certify that I have also mailed by United States Postal Service, first class service, with prepaid postage, and emailed the document to the following attorneys of record:

Kevin Hudson, Esq.
Alexander Bell, Esq.
Hudson Lambert Parrott, LLC
3575 Piedmont Road, Building 15, Suite 230
Atlanta, GA 30305

/s/ William D. Flatt

Georgia Bar No. 262827

/s/ Kevin S. Dale

Georgia Bar No. 328098

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